



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 13, 1992

Mr. Geoffrey S. Connor  
Assistant Commissioner for Legal  
Affairs and General Counsel  
Texas Department of Agriculture  
P. O. Box 12847  
Austin, Texas

OR92-158

Dear Mr. Connor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15022.

The Texas Department of Agriculture (the department) received an open records request for copies of the "bids" that the requestor's competitors submitted to the department for a fuel testing contract. You contend that the requested information comes under the protection of section 3(a)(4) of the Open Records Act.

Section 3(a)(4) of the Open Records Act protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." The purpose of section 3(a)(4) is to protect the government's interests when it is involved in commercial transactions. For example, section 3(a)(4) is generally invoked to except information submitted to a governmental body as part of a bid or similar proposal. *See generally* Open Records Decision No. 463 (1987). In these situations, the exception protects the government's interests in obtaining the most favorable proposal terms possible by denying access to proposals prior to the award of a contract. Because you state that the department has not yet awarded the contract, you may withhold the submitted bids in their entirety pursuant to section 3(a)(4).

As case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-158.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kym Oltrogge". The signature is fluid and cursive, with the first name "Kym" and last name "Oltrogge" clearly distinguishable.

Kym Oltrogge  
Assistant Attorney General  
Opinion Committee

KKO/RWP/lmm

Ref.: ID# 15022

Enclosures: Submitted documents

cc: N. H. Gerber  
Petroleum Sales Representative  
Core Laboratories  
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